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ATTORNEYS FOR DEFENDANT  
BEIJING SHOURONG FORWARDING SERVICE CO. LTD.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

THELMA SHIPPING CO. LTD.,

Plaintiff,

-against-

BEIJING SHOU-RONG FORWARDING SERVICE  
CO. LTD. a/k/a BEIJING SHOURONG  
FORWARDING SERVICE CO. LTD.

Defendant.

08 Civ.1804 (PAC)

**DECLARATION OF  
YU QIANG IN  
SUPPORT OF DEFENDANT'S  
MOTION FOR COUNTER-  
SECURITY PURSUANT TO  
SUPPLEMENTAL RULE E(7)**

I, Yu Qiang, of Room 2305-2307, 23F, Beijing Jinyu Plaza, 100 Xisanhuan BeiLu, Haidian District, Beijing, China, a resident of the People's Republic of China, declare under the penalty of perjury under the laws of the United States of America, pursuant to 28 U.S.C. §1746 that the following is true and correct:

1. I am employed by defendant Beijing Shourong Forwarding Service Co. Ltd. ("Beijing"), in the capacity of Manager of Iron Ore Shipping Department and am responsible for chartering and daily operation management. I submit this declaration in support of Beijing's motion for counter-security against Plaintiff Thelma Shipping Co. Ltd. (hereinafter "Thelma").

**THE MANASOTA CHARTER AND BEIJING'S DAMAGES**

2. On behalf of Beijing, I was responsible for negotiating and fixing the charter, dated November 9, 2007 between Thelma and Beijing ("Charter") in which Thelma time-chartered the motor vessel MANASOTA ("Vessel").

3. The negotiations were conducted between myself and Luc Van Mael of LSS, Thelma's broker.

4. As is customary, during the course of pre-fixture negotiations, Mr. Van Mael sent me the *pro forma* charter party, a standard New York Produce Exchange form, the basis of which would be used to confirm the fixture.

5. The specific *pro forma* provided was a charter party for the M/V BRISBANE, dated September 26, 2007 ("*Pro Forma*").

6. The *Pro Forma* contained additional Clause 102 regarding excessive delays in port with which I am accustomed. Specifically, Clause 102 states:

Where the vessel remains at anchorage, in port or idle for an extended period (means excess 20 days) in compliance with Charterer's orders/instructions, and this causes fouling of the hull or underwater parts, Owners shall not be responsible for such fouling or any vessel under-performance cause by such fouling. The cost of cleaning the hull or underwater parts, and the time spent doing so, shall be for Charterer's account.

7. During pre-fixture negotiations with Mr. Van Mael, we discussed the main terms of the Charter, but did not discuss the specific meaning of "extended period."

8. On or about November 9, 2007, Mr. Van Mael sent me via e-mail the fixture The Charter included the standard New York Produce Exchange charter party terms.

9. The fixture received from Mr. Van Mael contained the exact wording of Clause 102, but omitted the parenthetical "(means excess 20 days)" defining the meaning of "extended period." However, I was under the understanding that "extended period" need not be defined in the fixture recap because it was defined in the *Pro Forma*.

10. Furthermore, the fixture recap specifically states that the Charter is based on the M/V BRISBANE *Pro Forma* "WITH LOGICAL AMENDMENTS AS PER MAIN TERMS AGREED ONLY." Mr. Van Mael and myself did not agree to delete "(means excess 20 days)" from the *Pro Forma* for this would have rendered the meaning of "extended period" ambiguous. It could just as easily mean in excess of 20 days as it could mean less than 20 days without the parenthetical contained in Clause 102.

11. I understand from operations that on or about November 6, 2007, the Vessel was delivered to Beijing in or around the waters off Singapore. Shortly thereafter the Vessel performed a ballast voyage to Itaguai, Brazil where it loaded a cargo of iron ore.

12. The Vessel arrived in Itaguai, Brazil on December 5, 2007, but could not immediately unload its cargo due to port delays and congestion.

13. The Vessel completed unloading on December 23, 2007, and was thus in Itaguai for a total of 18 days during which time substantial hull growth accumulated on the Vessel.

14. The Vessel sailed directly from Itaguai, Brazil to Singapore arriving on January 25, 2008. As a result of the Vessel's failure to perform up to the standards warranted in the Charter due to hull growth, Beijing withheld charter hire as expressly provided in Additional Clause 102 of the Charter.

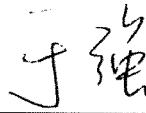
15. The Vessel was redelivered to Thelma on December 2, 2008.

16. After redelivery of the Vessel, Beijing calculated its claim against Thelma for underperformance of the Vessel to be US\$1,025,964.63, but at that time had not yet received sufficient documentation from Thelma to calculate the claim precisely.

17. Upon receiving additional information from Thelma, Beijing recalculated its underperformance claim against Thelma, and determined that it had in fact overpaid Thelma in the amount of US\$181,604.53. A true and correct copy of the revised Hire Statement showing this overpayment is attached hereto as Exhibit 1.

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Executed this \_5th\_ day of May, 2008 at Beijing, P.R. China

A handwritten signature in black ink, consisting of stylized Chinese characters, positioned above a horizontal line.

Yu Qiang

# **EXHIBIT 1**



## 北京首荣货运代理有限公司

北京海淀区西三环北路100号金玉大厦2305-2307# 100037

Tel. +86-10-8855 7888 / 88557881/2/3/5/6/7 Fax. +86-10-6848 7301

ISO-9002

e-mail:chartering@shourong.com

## Hire Statement of Account

Vessel: Mv MANASOTA Date: 1/3/2008  
 Owners: THELMA SHIPPING CO.LTD. Ref: 9th hire  
 Charterers: Beijing Shou-Rong Forwarding Service Co., Ltd C/P Date:  
 Delivery: 11/6/2007 5:00 Remark:  
 Redelivery: Currency: in USD

Descriptions		CHTRS'	OWRS'
Hire form:	11/6/2007 5:00 GMT to: 2/12/2008 10:00 GMT		
Hire days	98.208333 @ 175,000 /day		17,186,458.33
Bunker on Delivery			
IFO MTS	3862.778 @ 503 /mt		1,942,977.33
MDO MTS	193 @ 740 /mt		142,820.00
Bunker on Redelivery			
IFO MTS MTS	1966 @ 503 /mt	988,898.00	
MDO MTS MTS	132.129 @ 740 /mt	97,775.46	
C/E/V days	98.208333 @ 1500 PM		4,827.81
ILOHC			6,000.00
WNI CHARGE		300.00	
Less total raised offhire/speed claim		1,025,964.63	
less total raised offhire CVE/speed claim		286.68	
Address Commission	3.75%	644,492.19	38,473.67
less total IFO bunkers offhire/speed claim		142,365.10	
less total MDO bunkers offhire/speed claim		10,368.14	
less owner disbursement items		3,056.15	
Hire Paid			
1st hire		4,613,109.83	
2nd hire		2,527,660.00	
3rd hire		2,527,312.50	
4th hire		2,527,312.50	
5th hire		2,499,740.42	
6th hire		1,220,509.13	
7th hire		674,010.95	
Sub-Total:		19,503,161.68	19,321,557.15
Amount in Owrs Favour:		-181,604.53	
Grand-Total:		19,321,557.15	19,321,557.15

E.&amp;O.E.

pls arrange remittance to owners bank:

HUA XIA BANK XIZHIMEN BRANCH

Beneficiary: BEIJING SHOU-RONG FORWARDING SERVICE CO., LTD

A/C NO. 4063200002839300000125

Intermediate Bank: Jpmorgan Chase Bank, New York

Swift BIC: CHASUS33

A/C No. 400231182

Account with bank: Hua Xia Bank, H.O.

Swift BIC: HXBKCNBJXXX

Beneficiary Bank: Hua Xia Bank, Banking Department.